

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

48 WRIT PETITION NO.11822 OF 2022

SHESHRAO VENKATRAO RAUT
VERSUS
JAYSHREE GOVIND DHONDGE AND OTHERS

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Advocate for Petitioner : Mr V.S. Salunke h/f Mr Shrinivas A. Ambad

CORAM : SANDEEP V. MARNE, J.
DATE : 28th NOVEMBER, 2022

PER COURT :

1. Petitioner challenges order dated 9th November, 2022 passed by the Civil Judge, Junior Division, Sonpeth on application below Exh. 107 filed by him for framing of additional issue "whether the suit of the plaintiff is bad for non-joinder of necessary property."
2. In his written statement, petitioner, who is original defendant No. 2 has averred that the plaintiff has omitted to include the house at Tiwthana and plot at Parbhani in the suit and therefore, the suit is bad for non-joinder of necessary property.
3. The trial court has rejected the application holding that there is no necessity to frame the additional issue to determine the controversy between the parties. In my view, the application filed by petitioner was totally misplaced. The concept of "non-joinder of property", is unknown to law. The suit is filed in respect of the property which is described in para 1 of the plaint. It is beyond comprehension as to how the defendant No. 2 can insist that suit must also cover some other property. If the plaintiff

does not wish to seek any relief in respect of any property, the defendant No. 2 cannot force him to seek relief in respect of that property in addition to the suit property. The application was sheer abuse of process of law and has rightly been rejected by the trial court.

4. The writ petition is devoid of merits and the same is dismissed without any order as to costs.

[SANDEEP V. MARNE, J.]

mta